

REQUEST FOR PROPOSALS

LAB TESTING SERVICES

RFP# 269-2017-CWLTS



**CITY OF CHARLOTTE
NORTH CAROLINA**

SEPTEMBER 1, 2016

REQUEST FOR PROPOSALS
RFP # 269-2017-CWLTS
Lab Testing & Analytical Services

SEPTEMBER 1, 2016

Dear Service Provider:

Charlotte Water, a Department of the City of Charlotte, located in the State of North Carolina, is now accepting Proposals for **Lab Testing & Analytical Services**.

The scope of this contract shall be to provide Lab Testing & Analytical Services to Charlotte Water. The successful vendor(s) shall agree to gather and test samples as required. This is an indefinite quantity contract. Prices for services will be fix and firm for the duration of the contract.

Please read this Request for Proposal (RFP) in its entirety as it contains the specific requirements for submitting a Proposal, the scope of work, and the necessary insurance requirements for having a contract with the City.

There will not be a Pre-Proposal Conference.

RFP questions must be directed to Monica Henson, Charlotte Water Procurement Division, per the enclosed instructions in Section 2.3 Please submit questions regarding this solicitation or the solicitation process by SEPTEMBER16, 2016 by 11:00 AM EST to the following email address: mahenson@charlottenc.gov. All questions will be answered in an addendum. The addendum will be posted on the Charlotte Water website: <http://cmucontracts.charmeck.org>. Please see Section 2.3 for additional information.

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Monica Henson at mahenson@charlottenc.gov.

All Proposals are due to Charlotte Water located at 5100 Brookshire Blvd., Charlotte, NC 28216 no later than **OCTOBER 4, 2016 at 2:00 p.m. EST**. Time will be determined by Time.gov.

Late, Faxed, or eMailed proposals will not be accepted.

Submission of a Proposal requires one (1) electronic copy of the Proposal on a flash drive in a searchable format such as MS Word or Adobe Acrobat and one (1) original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus (3) three copies. All of the above is considered as your Proposal and must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals
Attention: Monica Henson
[Name of Company Submitting Proposal]
Lab Testing Services
RFP # 269-2017-CWLTS

The City is an equal opportunity purchaser.

Sincerely,

Monica Henson
Procurement Officer

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Section 1

Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the City to determine which Service Provider and Proposed Solution will best meet the City's needs.

1.2. Definitions.

As used in this RFP, the following terms shall have the meanings set forth below:

<i>Acceptance:</i>	Refers to receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria set forth in the Contract.
<i>Affiliates:</i>	Refers to all departments or units of the City and all other governmental units, towns, boards, committees or municipalities for which the City processes data or performs services that involve the Deliverables or Services.
<i>Charlotte Business Inclusion (CBI):</i>	Refers to the Charlotte Business Inclusion office of the City of Charlotte.
<i>Charlotte Combined Statistical Area (CSA):</i>	Refers to the Charlotte-Gastonia-Salisbury Combined Statistical Area consisting of; (a) the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union; and (b) the South Carolina counties of Chester, Lancaster, and York; a criteria used by Charlotte Business INClusion to determine eligibility to participate in the program.
<i>City:</i>	Refers to the CITY OF CHARLOTTE, North Carolina.
<i>City Project Manager:</i>	Refers to a specified City employee representing the best interests of the City for this Project.
<i>Company:</i>	Refers to a Service Provider that has been selected by the City to provide the Services required by this RFP.
<i>Company Project Manager:</i>	Refers to a specified Company employee representing the best interests of the Company for this Project.
<i>Contract:</i>	Refers to a written agreement executed by the City and Service Provider for all or part of the Services covered by this RFP.
<i>Deliverables:</i>	Refers to all tasks, reports, information, designs, plans and other items, which the Company is required to complete and deliver to the City in connection with this Contract.

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<i>Department:</i>	Refers to a department within the CITY OF CHARLOTTE.
<i>Documentation:</i>	Refers to all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the Deliverables or Services or any component thereof, and which are published or provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the Deliverables or Services.
<i>Evaluation Committee:</i>	Refers to a committee, as appointed by the City, responsible for determining the best Service Provider for the Services described in this RFP.
<i>Minority Business Enterprise/MBE:</i>	Refers to a business enterprise that: (a) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (b) is at least fifty-one percent (51%) owned by one or more persons who are members of one of the following groups: African American or Black, Hispanic, Asian, Native American or American Indian; and (c) is headquartered in the Charlotte Combined Statistical Area.
<i>MWSBE:</i>	Refers to SBEs, MBEs and WBEs, collectively.
<i>MWSBE Goal:</i>	If an RFP or Contract has separate Subcontracting Goals for MBEs, WBEs, and/or SBEs, the term MWSBE is a shorthand way to refer collectively to all MBE, WBE, and SBE Goals set for the RFP. In some instances, the City may set one combined goal for MBEs, WBEs, and/or SBEs, in which event the term MWSBE Goal refers to that one, combined goal. In the latter instance, calculated as a percentage, the MWSBE Goal represents the total dollars spent with MBEs, WBEs, and SBEs as a portion of the total Proposal amount, including any contingency.
<i>Project:</i>	Refers to the procurement process to choose a Service Provider to perform Lab Testing Services for the City.
<i>Proposal:</i>	Refers to the Proposal submitted by a Service Provider for the Services as outlined in this RFP.
<i>Services:</i>	Refers to the Lab Testing Services as requested in this RFP.
<i>Service Provider:</i>	Refers to a company that has interest in providing the Services required by this RFP.
<i>Small Business</i>	

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<i>Enterprise/SBE:</i>	Refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Deliverables and Services which are set forth or referenced in: (i) this RFP; (ii) the Documentation; and (iii) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Deliverables or Services.
<i>Subcontracting Goals:</i>	Refers to the SBE, MBE, WBE, and MWSBE Goals established by the City for an RFP and resulting Contract.
<i>Women Business Enterprise (WBE):</i>	Refers to a business enterprise that: (a) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (b) is at least fifty-one percent (51%) owned by one or more persons who are female; and (c) is headquartered in the Charlotte Combined Statistical Area.
<i>Work Product:</i>	Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Service Provider in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.

1.3. Accuracy of RFP and Related Documents.

Each Service Provider must perform its own evaluation and due diligence verification of all information and data provided by the City. The City makes no representations or warranties regarding any information or data provided by the City, and assumes no responsibility for conclusions or interpretations derived from the information presented in this RFP, or otherwise distributed or made available during this procurement process. In addition, the City will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents provided by the City other than those provided by the City through the issuance of addenda. In no event may a Service Provider rely on any oral statement by the City or its agents, advisors or consultants.

Should a Service Provider find discrepancies or omissions in this RFP or any other documents provided by the City, the Service Provider should immediately notify the City of such potential discrepancy in writing, and a written addendum may be issued if the City determines clarification necessary. Each Service Provider requesting an interpretation will be responsible for delivering such requests to the City's designated representative as directed in Section 2 of this RFP.

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1.4. City's Rights and Options.

The City reserves the following rights, which may be exercised at the City's sole discretion:

- 1.4.1. To supplement, amend, substitute or otherwise modify this RFP, including the schedule, or cancel this RFP, at any time;
- 1.4.2. To cancel this RFP with or without the substitution of another RFP;
- 1.4.3. To take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the City;
- 1.4.4. To issue additional requests for information;
- 1.4.5. To require one or more Service Providers to supplement, clarify or provide additional information in order for the City to evaluate the Proposals submitted;
- 1.4.6. To conduct investigations with respect to the qualifications, experience, capabilities, and financial standing of each Service Provider;
- 1.4.7. To waive any defect or irregularity in any Proposal received;
- 1.4.8. To reject any or all Proposals;
- 1.4.9. To share the Proposals with City employees other than the Evaluation Committee or City advisory committees as deemed necessary;
- 1.4.10. To award all, none, or any part of the Services that is in the best interest of the City, with one or more of the Service Providers responding, which may be done with or without re-solicitation.
- 1.4.11. To discuss and negotiate with selected Service Provider(s) any terms and conditions in the Proposals including but not limited to financial terms;
- 1.4.12. To terminate discussions and negotiations with any Service Provider at any time and for any reason; and
- 1.4.13. To enter into any Contract deemed by the City to be in the best interest of the City, with one or more of the Service Providers responding.

1.5. Expense of Submittal Preparation.

The City accepts no liability for the costs and expenses incurred by the Service Providers in responding to this RFP, in preparing responses for clarification, in attendance at interviews, participating in contract development sessions, or in meetings and presentations required for the contract approval process. Each Service Provider that enters into the procurement process shall prepare the required materials and submittals at its own expense and with the express understanding that the Service Providers cannot make any claims whatsoever for reimbursement from the City for the costs and expenses associated with the procurement process.

1.6. Proposal Conditions.

The following terms are applicable to this RFP and the Service Provider's Proposal.

- 1.6.1. RFP Not An Offer.

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This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and the Service Provider execute a Contract. No recommendations or conclusions from this RFP process concerning the Service Provider shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

1.6.2. Right to Terminate Discussions.

The Service Provider's participation in this process might result in the City selecting the Service Provider to engage in further discussions. The commencement of such discussions, however, does not signify a commitment by the City to execute a Contract or to continue discussions. The City can terminate discussions at any time and for any reason.

1.6.3. Requirement for Representation as to Accuracy and Completeness of Proposal.

Each Service Provider shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: "The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts."

1.6.4. Trade Secrets and Personal Identification Information /Confidentiality.

Upon receipt at the Procurement Management Division, all materials submitted by a Service Provider (including the Proposal, requests and other communications) are considered public records except for material which qualifies as "trade secret" information under N.C. Gen. Stat. 66-152 et seq. and personal identification information" as protected by state and federal law ("Personal Identification Information" or "PII"), to include, but not be limited to, social security numbers, bank account numbers, and driver's license numbers. After the Proposal due date, the City's Evaluation Committee, as well as other City staff and members of the general public who submit public records requests will review the Proposal.

The public disclosure of the contents of a Proposal or other materials submitted in response to this RFP is governed by Chapter 132 and 66-152 et. seq. of the General Statutes of North Carolina. If any Proposal contains trade secret information as defined by Chapter 66-152 et seq. of the General Statutes of North Carolina or PII, such trade secret information and PII must be specifically and clearly identified.

Any trade secrets or PII submitted by a Service Provider must be clearly segregated from the rest of the Proposal. For hard copy Proposals, it must be submitted in a separate, sealed envelope, marked either "Personal Identification Information – Confidential" or "Trade Secret—Confidential and Proprietary Information." For electronic submissions it must be submitted on a separate flash drive. Whether filing by hard copy or

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electronic format, the confidentiality same caption stated above must be clear appear on each page of the trade secret or PII materials.

In submitting a Proposal, each Service Provider agrees that the City may reveal any trade secret materials and PII contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the City to assist in the evaluation process.

Furthermore, each Service Provider agrees to indemnify and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material, which the Service Provider has designated as a trade secret. Any Service Provider may be disqualified that designates its entire Proposal as a trade secret or any portion thereof which clearly does not qualify under applicable law as a trade secret.

1.6.5. Prohibited Discrimination.

The City is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this section, Prohibited Discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination.

Without limiting the foregoing, Prohibited Discrimination also includes retaliating against any person, business or other entity for reporting any incident of Prohibited Discrimination. It is understood and agreed that not only is Prohibited Discrimination improper for legal and moral reasons, Prohibited Discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the City and others. As a condition of entering into any Agreement, the Service Provider shall represent, warrant and agree that it does not and will not engage in or condone Prohibited Discrimination. Without limiting any rights the City may have at law or under any other provision of any Agreement, it is understood and agreed that a violation of this provision constitutes grounds for the City to terminate any such Agreement.

1.6.6. Statutory Requirements.

Any Contract awarded as a result of this RFP shall be in full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable.

1.6.7. Reservation of Right to Change Schedule.

The City shall ultimately determine the timing and sequence of events resulting from this RFP. The City reserves the right to delay the closing date and time for any phase if City staff believe that an extension will be in the best interest of the City.

1.6.8. Reservation of Right to Amend RFP.

The City reserves the right to amend this RFP at any time during the process, if it believes that doing so is in the best interests of the City.

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Any addenda will be posted to the Internet at www.ips.state.nc.us, RFP # 269-2017-CWLTS. Service Providers are required to acknowledge their receipt of each addenda by including the Addenda Receipt Confirmation Form set forth in Section 8, Form 2 with their Proposal.

1.6.9. No Collusion or Conflict of Interest.

By responding to this RFP, the Service Provider shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Service Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.

1.6.10. Additional Evidence of Ability.

Service Providers shall be prepared to present additional evidence of experience, qualifications, abilities, equipment, facilities, and financial standing. The City reserves the right to request such information at any time during the Proposal evaluation period for this RFP.

1.6.11. Proposal Terms Firm and Irreversible.

The signed Proposal shall be considered a firm offer on the part of the Service Provider. The City reserves the right to negotiate price and Services. All Proposal responses (including all statements, claims, declarations, prices and specifications in the Proposals) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Service Provider chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election. Any false or misleading statements found in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.

1.6.12. Proposal Binding for 120 Days.

Section 7, Form 3 contains a statement to the effect that the Proposal is a firm offer for one-hundred-twenty (120) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Service Provider. All prices quoted shall be firm and fixed for the full Contract period. The City shall have the option to accept subject to exception by Contract.

1.6.13. Charlotte Business INClusion Program.

Pursuant to Charlotte City Council's adoption of the Charlotte Business INClusion (CBI) Policy, the CBI program promotes diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) headquartered in the Charlotte Combined Statistical Area (CSA). The CBI Policy is posted at: www.charlottebusinessinclusion.com.

The City is committed to promoting opportunities for maximum participation of certified MWSBEs on City funded contracts at both the

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Prime and Subcontract level. For MWSBE participation to count towards a Goal, MWSBEs must meet both the certification and geographic requirements as detailed throughout this solicitation and in the CBI Policy.

- 1.6.14. Equal Opportunity.
The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the goods and services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Service Providers regardless of race, color, religion, age, sex, and national origin or disability.
- 1.6.15. Use of City's Name.
No advertising, sales promotion or other materials of the Service Provider or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.
- 1.6.16. Withdrawal for Modification of Proposals.
Service Providers may change or withdraw their Proposals at any time prior to the Proposal due date; however, no oral modifications will be allowed. Only telegrams, letters, or other formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal, and received by the City prior to the scheduled closing time for receipt of Proposals, will be accepted. The Proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked "**Modifications to Proposal.**"
- 1.6.17. No Bribery.
In submitting a response to this RFP, each Service Provider certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract..
- 1.6.18. Fair Trade Certifications.
By submission of a Proposal, the Service Provider certifies that in connection with this procurement:
- The prices have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with anyone;
 - Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Service Provider and will not knowingly be disclosed by the Service Provider prior to opening; and
 - No attempt has been made or will be made by the Service Provider to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

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- 1.6.19. Clarification of Ambiguities.
Any Service Provider believing that there is any ambiguity, inconsistency or error in this RFP should notify the procurement officer via email. Failure to notify will constitute a waiver of claim for ambiguity, inconsistency or error.
- 1.6.20. Service Provider's Obligation to Fully Inform Themselves.
Service Providers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Service Provider's own risk.
- 1.6.21. Disclaimer.
Each Service Provider must perform its own evaluation and due diligence verification of all information and data provided by the City. The City makes no representations or warranties regarding any information or data provided by the City.
- 1.6.22. Sensitive Documents.
All or substantial portions of the following documents may not be considered to be public records pursuant to applicable provisions of North Carolina law: Engineer's work product under this contract; and all plans, drawings and other documents containing security plans and arrangements and/or detailed plans and drawings of any facility of the City. Such work product, security arrangements, and/or detailed plans and drawings are herein referenced as Sensitive Document(s). Without limiting the foregoing, it is expressly understood and agreed that Sensitive Document(s) is not limited to documents related to this contract and includes any and all documents herein described concerning any facility of the City regardless of the type of facility and regardless of the manner in which the Contractor acquired possession of such documents. The City retains sole authority and discretion to determine whether all or any portion of any Sensitive Document is a public record pursuant to applicable provisions of North Carolina law. Under no circumstances will the Service Provider provide the original or copy of any portion of any Sensitive Document (without regard to the status of such Sensitive Document as in preliminary, draft or final form) to any person or entity unless directed by the City or unless reasonably necessary to satisfy Service Provider's obligations pursuant to this contract. The Service Provider will maintain and implement such rules and procedures governing the conduct of its officers, employees, agents and subcontractors and the maintenance, handling and use of Sensitive Documents as may be reasonably necessary to prevent the release of any Sensitive Document in violation of this provision. Such rules and procedures will be subject to review by the City and such changes as the City determines to be reasonably necessary, including without limitation maintaining a log identifying any Sensitive Document provided to any person or entity that includes at a minimum, identification of the Sensitive Document provided, name of person releasing the Sensitive Document, name of person receiving the Sensitive

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Document, reason for releasing Sensitive Document, and date Sensitive Document released.

Without exception, every person or entity receiving a Sensitive Document must agree not to copy or release such Sensitive Document to any other person or entity, unless otherwise approved by the City in writing. Such log need not include the release of any document to an officer or employee of the Service Provider or to any employee of the City. A violation of any provision of this section is a serious violation of this contract and will be the basis for immediate termination of this contract for cause, notwithstanding any other provision of this contract to the contrary.

- 1.6.23. Service Provider's Obligation to Fully Inform Themselves.
Service Providers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Service Provider's own risk.

Section 2

Procurement Process

2. PROCUREMENT PROCESS.

This Section 2 contains information about the procurement process for this Project.

2.1. Schedule and Process.

The following chart shows the schedule of events to prepare the Service Provider's Proposal. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
September 1, 2016	<i>Issuance of RFP.</i> The City issues this RFP.
September 16, 2016	<i>Submission of Written Question.</i>
October 4, 2016	<i>Proposal Submission.</i> Proposals are due by 2:00 p.m. EST to Charlotte Water: 5100 Brookshire Blvd., Charlotte NC 28216.
November 14, 2016	<i>Contract Award by City Council.</i>
January 1, 2017	<i>Lab Testing Services.</i> Service Provider begins providing all Lab Testing Services.

2.2. Interpretations and Addenda.

No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Service Provider. Service Providers must request such interpretations or clarifications in writing from the City.

All requests for information or clarification of this RFP must go to:

Monica Henson
Charlotte Water
5100 Brookshire Boulevard Charlotte, NC 28216
RFP # 269-2017-CWLTS
mahenson@charlottenc.gov
Fax: 704-632-8536

SEPTEMBER 16, 2016 by 11:00 am EST is the deadline for submission of Questions, Clarifications and/or Interpretations.

When submitting, please reference the RFP page and topic number.

In the case of questions not submitted by the above stated deadline, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the Proposal Due Date.

When responding to Proposer questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at <http://cmucontracts.charmeck.org/solicitation# 269-2017-CWHS>.

Section 2

Procurement Process

Service Providers are required to acknowledge their receipt of each addenda by including in the Proposal a completed Addenda Receipt Confirmation Form (Section 7, Required Form 2: Addenda Receipt Confirmation).

The City reserves the right to disqualify any Service Provider that contacts a City official, employee, or agent concerning this RFP other than in accordance with this Section. Nothing in this Section shall prohibit the City from conducting discussions with Service Providers after the Proposal Due Date.

2.3. Submission of Proposals.

Proposals must be in the format specified in Section 4 of this RFP.

One electronic copy on a flash drive in a searchable format such as MS Word or Adobe Acrobat and one unbound original Proposal signed in ink by a company official authorized to make a legal and binding offer, plus (3) three copies shall be submitted to the address listed below by **2:00** on or before but no later than **2:00** p.m. EST.

The original Proposal and each of the (3) three copies shall be complete and unabridged, and shall not refer to any other copy of the signed/sealed original for any references, clarifications, or additional information.

When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City.

- **Proposals sent by fax or email will not be accepted.**
- **Proposals sent after the deadline will not be accepted.**

Deliver Proposals to the following address:

Charlotte Water
Procurement Department, 2nd Floor
ATTN: Monica Henson, Procurement Officer
5100 Brookshire Blvd.
Charlotte, NC 28216

Proposals may be mailed or hand delivered.

Regardless of delivery method, Proposals must be submitted in a sealed envelope or box with the following information clearly notated on the face of it:

**Proposals ENCLOSED
RFP 269-2017-CWLTS
Lab Testing Services
Name of Proposer/Vendor
Address of Proposer/Vendor**

If submitted via mail (by a third party vendor: FedEx, UPS, USPS, etc): the outside sealed Proposals envelope or box must contain the aforementioned information clearly identified on the face of the box or envelope.

Section 2

Procurement Process

If submitted via hand delivery, the Proposal envelope must be placed inside the **white Procurement box** labeled “**Services Only**” located on the 2nd Floor Lobby at 5100 Brookshire Blvd., Charlotte, NC 28216.

Package Size Limitations:

- Packages must be the following dimensions or smaller: 12”W x 8.25”H x 11.5”D.
- If the package is larger, it must be separated into smaller packages with the outside of the package clearly marked “PACKAGE X OF X”.

Additional Information:

- Proposer shall allow enough time to sign in at the reception desk and obtain a visitor badge in order to access the 2nd floor.
- No responsibility will be attached to the City for prematurely opening of a Proposal that is not properly addressed or identified.
- Each Proposer is solely responsible for the timely delivery of their Proposals.
- Proposers accept all risks of late delivery regardless of fault.
- Any Proposals received after the date and time specified, regardless of the mode of delivery, shall not be considered.
- The Procurement Officer will confirm receipt of Proposal to all Proposers via email within 24 hours of the Proposal deadline.

Do not arrive at the Procurement Management Division on the Proposal due date for the purposes of reviewing your competitors’ Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved.

2.4. **Correction of Errors.**

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Service Provider further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

2.5. **Evaluation.**

As part of the evaluation process, the Evaluation Committee may engage in discussions with one or more Service Provider(s). Discussions might be held with individual Service Providers to determine in greater detail the Service Provider’s qualifications, to explore with the Service Provider the scope and nature of the required contractual Services, to learn the Service Provider’s proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City.

The City may in its discretion require one or more Service Providers to make presentations to the Evaluation Committee or appear before the City and/or its representatives for an interview. During such interview, the Service Provider may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the City deems appropriate. Service Providers will be notified in advance of the time and format of such meetings.

Since the City may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall define the Service Provider's best offer for performing the Services described in this RFP.

2.6. Contract Award by City Council.

As soon as practical after opening the Proposals, the name of the apparent successful Service Provider will be submitted to the City Council for final approval of award. If approved by the City Council, Charlotte Water's Procurement Unit will provide Contract documents to the Service Provider. In the event the City Council approval is not received within one-hundred-twenty (120) calendar days after opening of the Proposals, the Service Provider may request that it be released from the Proposal.

2.7. Vendor Registration.

The City of Charlotte is pleased at your interest in doing business with us, and we appreciate this opportunity to provide you with information regarding our procurement protocols. Our vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all vendors. In support of this initiative, our Charlotte Business INClusion program strives to promote diversity, inclusion, and local business opportunities in the City's contracting and procurement processes. To learn more about this program, visit www.charlottebusinessinclusion.com. You can begin the application process for the City's Charlotte's Small Business Enterprise (SBE) certification by clicking here.

To begin, please register as a vendor by visiting <http://vendors.charlottenc.gov> and complete a Vendor Registration Form. Return this form with a current W9 to ssvendoradmin@charlottenc.gov. Your registration provides the City with baseline information for your company including location, contact, and demographic information, and information about the goods and/or services you are capable of providing to us.

For notification of specific contracting opportunities, please register with the North Carolina Interactive Purchasing System (NCIPS) at www.ips.state.nc.us. Your free registration will enable automatic notifications via email of opportunities to bid or propose on many City projects.

For additional assistance with registration and updates to existing vendor information, please contact our Vendor Administration representatives at ssvendoradmin@charlottenc.gov or 704-432-4777.

3. SCOPE OF LAB TESTING SERVICES.

3.1. General Scope.

The scope of this contract shall be to provide Lab Testing Services to Charlotte Water. The successful vendor(s) shall agree to gather and test samples as required.

- This is an indefinite quantity contract.
- Prices for services will be fix and firm for the duration of the contract.
- It is not necessary that each vendor to provide pricing on all tests; only those they are interested in receiving a contract for.
- Minimum order requirement will not be accepted.

Charlotte Water is looking for vendor(s) which can provide various testing and analytical services. The following testing services are listed below:

- **Headworks/LLHG WWTP:** routine analysis of monthly headworks samples and low level mercury sampling and analysis at the Wastewater Treatment Plants (WWTP) operated by Charlotte Water.
- **PCBs:** for routine analysis of PCB samples from the wastewater plants and from random sampling of septage/waste haulers with Charlotte Water.
- **Bromide:** This scope is for routine analysis of Bromide from lake water in the Mecklenburg county area.
- **Toxicity WWTP/WT:** This scope is for the routine analysis of Toxicity at the wastewater (WWTP) and water plants (WTP) operated by Charlotte Water. Multiple laboratories will be selected for this service. The estimated sample load is expected to be minimum sample load and may increase if extra monitoring is required.
- **General Analyses:** This scope is for the analysis of listed compounds on an as needed basis. The vendor(s) will be contacted as far in advance as possible to arrange this service should it be needed.
- **Water Treatment Analytical Services:**
Unregulated Contaminant Monitoring Rule 3 (UCMR3) is a new regulations that must be met by Charlotte Water, to remain in compliance with Safe Drinking Water Act (SDWA) requirements. Analytical Laboratory Services will be completed on raw and drinking water samples for regulatory compliance requirements, through outsourcing methods, at an external laboratory. Work must be performed by an experienced and certified drinking water analytical laboratory. Service Provider shall be responsible for providing pre-labeled sample kits which shall be collected and analyzed, as well as creating and providing reports to Charlotte Water and regulatory agencies as required.

The table listed below details the regulation/parameters, number of sites, and frequency of service required for this project.

Section 3

Scope of Services

Regulation/Parameter(s)	Number of Sites	Frequency
Orthophosphate/Phosphate/Calcium Samples	5	Weekly
THM/HAA Samples	5	Weekly
Chloride/Sulfate Samples	5	Monthly
Lead/Copper Samples	5	Bi-Monthly
Pharmaceutical and Personal Care Products (PPCP's)	2	Monthly (for 24 months)
Radiological Analyses (Uranium, gross Alpha and Beta, Radium 226 & 228)	5	Quarterly
Synthetic Organic Compounds (SOC's)	7	Quarterly

Discount from List: This is to provide a set discount from the vendor's list pricing for any other analyses that the vendor may be able to offer but are not included in the scopes above. This will be tests which Charlotte Water usually does not use but may need to. This is on an as needed basis.

Additional Charges: Use this section to list any necessary fees not included in the analysis lists above, such as fees for expedited turn around, special reporting, electronic deliverables, or sample disposal fees. Please note that, due to the overall value of this contract, minimum fees per COC will not be allowed.

3.2. Quantities.

Charlotte Water will purchase services based on actual need and does not guarantee quantities. The quantities listed, where provided, in the Pricing Worksheet are estimated based on past utilization. Multiple orders will be placed on an as needed basis during the term of this contract.

3.3. Materials.

- 3.3.1. Charlotte Water will not be responsible for furnishing materials under this agreement. The Service Provider shall be responsible for providing all materials required for the provision of services including pre-labeled sample bottles.
- 3.3.2. Charlotte Water reserves the right to inspect the condition of the equipment to be used prior to its use.
- 3.3.3. Pre-labeled sample bottles shall have the appropriate parameters and site codes to match Charlotte Water's collection sites.
- 3.3.4. Sample kits shall include detailed directions on how to correctly collect samples and completing the Chain of Custody (COC).

3.4. Work Hours.

The Service Provider shall provide unlimited service during the following Service Hours: Monday through Friday: 8:00 AM EST to 6:00 PM EST - excluding holidays recognized by the City of Charlotte.

The Service Provider may be required to perform emergency services at times other than the above defined working hours.

The Service Provider must complete jobs within ten (10) working days of the approval. Should a repair require urgent attention, the Charlotte Water project manager or designee shall notify the Service Provider that the situation should be given top priority and completed before the normal turnaround of 10 business days.

3.5. Environmental Reporting Requirements

The Service Provider shall furnish Quarterly usage reports showing a summary of the ordering and/or history of each city department for the previous quarter to the Procurement Service Divisions. The report must show, at a minimum, description and total quantity of each item ordered during the period, reporting period, City agency, and total dollars per agency. The City reserves the right to request additional information, if required, when reviewing contract activity.

3.6. Pricing.

The City expects to establish a long-term relationship with its Lab Testing Services Service Provider in order to permit costs and fees to be distributed properly over a sufficient time period.

Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project. Cost must be in United States dollars rounded to the nearest quarter of a dollar. A pricing worksheet is provided in Section 7, Form 4 to assist you.

3.7. Term.

For purposes of this RFP and the Service Provider's Proposal, assume an initial term of one year (1) years, with the City having an option to renew for two (2) additional consecutive one (1) year terms thereafter. Pricing fix and firm.

3.8. Reporting Requirements.

- 3.5.1 The laboratory shall specify pricing and hold NC certification and NELAP accreditation for wastewater and drinking water analytical methods set forth in Exhibit A. If any of those certifications and accreditations are lost, the Laboratory must immediately notify the City and to determine where the sample(s) will be subcontracted.
- 3.5.2 The Laboratory shall perform the services described therein and shall provide all labor, materials, equipment, transportation/courier services, facilities, sample disposal and other services, and permits required without additional charge to the City.
- 3.5.3 For various reasons, a repeat of an analysis may be requested at no additional charge to the City.
- 3.5.4 Turnaround time for analytical testing reports will be determined jointly by the parties at the time of request.
- 3.5.5 Influent and Effluent samples will be retained for forty-five (45) days prior to disposal. Should storage space become an issue, samples will be returned to the City. Approval to dispose of other samples in less than forty-five (45) days may be obtained from the City.
- 3.5.6 The Laboratory will provide the names of a primary contact (Project Manager) and a backup

3.9. Delivery.

Results must be delivered to the location indicated on the Purchase Order.

3.10. Customer Service.

The City is very focused on Customer Service with a philosophy to provide all customers with quality services in a manner that is courteous, responsive, accessible, and seamless. The Services will be delivered with patience, understanding, good will, and without regard to our own convenience. The selected Service Provider will be expected to use these guidelines in developing the Proposed Solution:

- Emergency onsite response within 60 minutes of call
- Accessible, courteous, responsive and seamless customer service is of highest priority for the City.
- Accessible service means that citizens have easy access to the organization.
- Seamless customer service means that a customer gets good service no matter who is responsible.
- Responsible customer service means that our employees know what they are doing; that information they give is accurate; that they have a good understanding of how to get problems and decisions made; that they are trained and evaluated for the jobs they are doing.
- Customer Service goals must be measurable and regularly evaluated.
- Continuous improvements in customer service must be made in order to make City services accessible, responsive and as seamless as possible.

3.11. License, Insurance, and Experience

- 3.7.1 The Service Provider must have an established office within close proximity of the Mecklenburg County area and currently be engaged in the business of such work.
- 3.7.2 The Service Provider shall also provide proof of being insured and a listing of experience performing these services.
- 3.7.3 The Service Provider shall furnish the City with a listing and current copies of certificates that are required to provide the requested services.
- 3.7.4 The Service Provider shall be responsible for obtaining any and all required permit(s) and licenses.

3.12. INSURANCE.

- 3.8.1. Company shall obtain and maintain during the life of this Contract, with an insurance Company rated not less than "A" by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:
- 3.8.2. Automobile Liability - Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.
- 3.8.3. Commercial General Liability - Bodily injury and property damage liability as shall protect the Company and any subcontractor performing

Section 3

Scope of Services

Services under this Contract, from claims of bodily injury or property damage which arise from performance of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.

3.8.4. Professional Errors & Omissions - Insurance with a limit of not less than \$1,000,000 per claim, \$1,000,000 aggregate as shall protect the contractor and the contractor's employees for negligent acts, errors or omissions in performing the professional services under this contract.

3.7.5. Workers' Compensation and Employers Liability - meeting the statutory requirements of the State of North Carolina, \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.

3.13. Applicable Laws:

The Successful Proposer must be familiar with, have a working knowledge of, and comply with all federal, state, and local laws, statutes, ordinances and regulations as applicable to the service requirements of this RFP. These shall include the rules, regulations and interpretations of the North Carolina Department of Labor relative to Occupational Safety and Health Standards.

3.14. Permitting.

All permits and inspections are the sole responsibility of the successful vendor(s).

3.15. Security Requirements.

The Service Provider must define and demonstrate security procedures that are in place. The City requires that security measures be taken – both physical security and network security, in that the City's information and other documents and data are made available only to the Service Provider and parties that the City approves.

3.16. City Contract Requirements.

The City will enter into a Contract written by the City with the successful Service Provider that contains the terms and conditions set forth in Exhibit A. Each Service Provider must state specifically in its Proposal any exceptions to the terms and conditions included in Exhibit A, and any proposed additional terms or conditions deemed important by the Service Provider. The City will take any such exceptions and proposed additions into account during the evaluation process. Any terms and conditions that the Service Provider does not specifically object to will be incorporated into the resultant Contract. Notwithstanding the foregoing, the City reserves the right to change the proposed contractual terms and conditions prior to or during contract negotiations if it is in the City's best interest to do so.

The terms and conditions set forth in Exhibit A are not all inclusive. The City will propose additional terms and conditions based on the responses to this RFP and the City's analysis of the successful Service Provider's Proposal.

4. PROPOSAL FORMAT.

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Service Provider's preference, the City requires strict adherence to the format. The Proposal will be in the format described below:

- a. Cover letter;
- b. Proposed Solution;
- c. Background and Experience
- d. The "Proposal Submission" set forth in Section 7, Form 1;
- e. The "Addenda Receipt Confirmation" set forth in Section 7, Form 2;
- f. The "Pricing Worksheet" set forth in Section 7, Form 3;
- g. The "Proposal Certification" set forth in Section 7, Form 4;
- h. The "MWSBE Subcontractor set forth in Section 7, Form 5;
- i. The "E-Verify" set forth in Section 7, Form 6;
- j. The "Background and Experience" set forth in Section 7, Form 7;
- k. The "References" set forth in Section 7, Form 8;
- l. The "Safety Assessment" set forth in Section 7, Form 9; and

All Proposals shall be 8 1/2" x 11" format with all standard text no smaller than eleven (11) points and use one-sided copying. Therefore, it is desired that all responses meet the following requirements:

Proposals must also include a flash drive including the entire Proposal in a searchable format such as MS Word or Adobe Acrobat.

Service Providers are required to organize the information requested in this RFP in accordance with the format and instructions outlined above and detailed below. Failure to do so may result in the City, at its sole discretion, deeming the Proposal non-responsive. The Service Provider, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.11. Proposal Content.

4.11.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents. The cover letter shall provide the name, address, telephone and facsimile numbers of the Service Provider along with the name, title, address, email address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall present the Service Provider's understanding of the Project, a summary of the approach to be undertaken to perform the Services, as well as a summary of the costs to provide the Services.

4.11.2. Proposed Solution.

Given the purpose of this project and the City's goals as stated in this RFP, provide a creative solution to meet such goals. **For each component of the Project described in Section 3, state whether your Proposed Solution complies and provide a description of how the Proposed Solution**

Section 4

Proposal Format

complies as well as any additional information requested. If you wish to add supplemental information, it shall be labeled “Supplemental Information.”

4.11.3. Required Forms.

To be deemed responsive to this RFP, Service Providers must complete in detail, all Proposal Forms listed in this Section 4.

Section 5

Background and Experience

5. SERVICE PROVIDER'S BACKGROUND AND EXPERIENCE.

Please answer the following questions as completely as possible, placing your answer immediately after the question to which it applies. **If you wish to add supplemental information, it shall be labeled "Supplemental Information."**

5.11. Service Provider Background.

Please complete Section 7, Form 7.

5.12. Analytical Approach (no response required).

The evaluation of financial viability of the Service Providers was developed with one primary goal in mind: to protect the City from risk of default by a selected Service Provider due to financial instability. Various analytical techniques will be used to assess the financial strength and stability of each Service Provider, focusing on profitability, solvency, and efficiency. The analysis will include an evaluation of specific financial indices and ratios in an effort to maximize objectivity and provide measures that are more directly comparable among Service Providers.

Other factors which may impact the financial position of a Service Provider, or which provide additional evidence of the financial strength of a Service Provider, will also be assessed. These factors include years of experience in providing similar Services, and demonstration of the ability to obtain sufficient levels of liability and property damage insurance.

Relevant information regarding recent litigation and bankruptcy filings, which may materially affect a Service Provider's financial position, will be examined. In addition to credit ratings and credit reports, bank and vendor references will be used to evaluate the credit worthiness of each Service Provider.

5.13. Requests for Financial Information.

The Service Provider must have the financial information requested in this Section 5.6 readily available and have the ability to provide it to the City, **without exception**, within twenty-four (24) hours upon the City's request during the Proposal evaluation process.

DO NOT INCLUDE THE FINANCIAL INFORMATION REQUESTED IN THIS SECTION WITH YOUR PROPOSAL SUBMISSION.

If the Service Provider does not have the audited financial statements requested, it is the responsibility of the Service Provider to provide the City with information of sufficient quantity and with verifiable sources to ascertain that the Service Provider is financially capable of performing the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

Upon request, please furnish the following financial information for the proposing Service Provider(s), guarantor(s), and any sub-contractor included as having a significant role (defined as providing more than fifteen percent (15%) of the services) in providing Services to the City:

- a. Include in the statement of guarantor(s), as described in Section 5.5. Guarantor, evidence of the ability of the guarantor to meet the short-term funding needs of this project;

Section 5

Background and Experience

- b. Evidence that demonstrates the ability to obtain the insurance as required in Section 8. Such insurance should provide coverage in the stated amount for each occurrence of bodily injury and for each occurrence of property damage with coverage for products/completed operations, personal injury liability, and contractual liability;
- c. Annual audited financial reports for each of the past five (5) fiscal years, prepared in accordance with Generally Accepted Accounting Principles (GAAP), and all relevant notes;
- d. The most recent Form 10-K and Form 10-Q filed with the Securities and Exchange Commission (SEC); or, if the contractor is not regulated by the SEC, then the most recent quarterly financial report.
- e. Description of any material adverse changes in financial position within the past five (5) years; any material changes in the mode of conducting business; any bankruptcy proceedings, mergers, acquisitions, takeovers, joint ventures, and/or divestitures within the past five (5) years. In addition, provide a clear and definitive statement of the following:
 - Years of providing similar Services by the Service Provider and/or predecessor organization;
 - Whether or not the Service Provider (and/or predecessor, guarantor or subcontractor) has declared bankruptcy within the last five (5) years;
 - Description of the financial impact of any past or pending legal proceedings and judgments, as identified in Section 5.10 that could materially affect the Service Provider's financial position or ability to provide Services to the City. This information will be reviewed and assessed in accordance with the information provided by the Service Provider, in the above referenced Section;
 - All credit reports, credit bulletins, and any other published statements by the most recognized agencies (Standard & Poors Rating Group, Moody, Investor Services, Dun & Bradstreet, and Value Line) that have been issued or published about the entity within the past five (5) years;
 - The prospectus or offering statement for the entity's latest security or equity offering;
 - The company name, contact person, telephone number, and fax number of at least two (2) references from bank or institutional lenders which have extended credit to the entity in the past five (5) years; or if the entity has not applied for credit in the past five (5) years, the contact person's name, telephone number, and fax number of at least two (2) references from banks with which the entity conducts business;
 - The company name, contact person, telephone number, and fax number of at least two (2) credit references from suppliers/vendors; and
 - Any additional information, which the Service Provider believes, is appropriate to fully reflect the financial strength of the entity.

Section 5

Background and Experience

Failure to provide such information is cause for rejection of the Service Provider Proposal at the sole discretion of the City. For any subcontractor providing more than fifteen percent (15%) of the Services, the City reserves the right, at its sole discretion, to reject the subcontractor if it fails to meet minimum financial requirements. In the event the City's Evaluation Committee rejects the subcontractor, the Contractor must assume the responsibilities of the subcontractor or find a replacement satisfactory to the Evaluation Committee.

5.14. Proposed Project Team.

If the Service Provider's proposal submission will be from a team composed of more than one (1) company or if any subcontractor will provide more than fifteen percent (15%) of the Services, all participating companies must be identified. Provide a description, which includes the teaming relationships, form of partnership, each team member's contribution, and the experience of each team member, which qualifies them to fulfill their responsibility. Provide descriptions and references for the projects on which team members have previously collaborated.

5.15. Past or Pending Judgments.

For purposes of this Section, the term "Related Entity" means any parent, subsidiary, affiliate or guarantor of the Service Provider. For all matters involving the Service Provider providing products or services to local, state or federal government, submit declarations of the current status of any past or pending criminal, civil, or administrative litigation against the Service Provider or any Related Entity. For all matters involving the Service Provider providing products or services to local, state or federal government, in addition, submit declarations of the current status of all pending criminal, civil or administrative litigation that commenced within the past five (5) years in North America, whether or not it involves local governments, against the Service Provider or Related Entity. (For the purpose of the declarations, current officer, shall be defined to include those individuals who are presently serving or who have served within the past two (2) years as an officer of the company.) State whether there are any cases pending against the Service Provider, a Related Entity, officer of either, that, if adversely resolved, would pose a material risk of insolvency to either the Service Provider or Guarantor or materially affect the Service Provider's or Guarantor's ability to perform their obligations.

The respondent may choose not to submit records for matters that were resolved prior to the time that the subsidiary or affiliate became associated with the parent company, as long as that subsidiary or affiliate will not be involved in the provision of Services to the City. All records for subsidiaries or affiliates of the parent company that may be involved in the provision of Services to the City must be included.

The City reserves the right to request additional information to explain any of the above citations/violations.

6. PROPOSAL EVALUATION CRITERIA.

Proposals will be evaluated based on the Service Provider's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Service Provider to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Service Provider's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Services and requested herein. Failure of any Service Provider to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the City based on, but not limited to, the criteria below. The City reserves the right to modify the evaluation criteria or waive portions thereof. Proposals will be evaluated on the following major categories:

- a. Qualifications and Experience
- b. Project Approach / Proposed Solution;
- c. Financial Qualifications;
- d. Cost Effectiveness and Value; and
- e. Acceptance of the Terms of the Contract.

6.11. Qualifications and Experience

Service Providers will be evaluated on the background and experience information provided in Section 7, Form 8.

6.12. Project Approach / Proposed Solution.

Service Providers will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the City's, and the feasibility of the Service Provider's approach for the provision of the Services.

6.13. Financial Qualifications.

This criterion includes an evaluation of the financial qualifications of the Service Provider. The evaluation will take into account the financial strength of the Service Provider and its ability to meet the long-term financial requirements of the Contract.

The Internal Audit Division of the City will evaluate the Proposal responses and give an opinion to the evaluation team as to the financial strength of each Service Provider based on the financial information submitted in accordance with Section 5.

6.14. Cost Effectiveness and Value.

Under this criterion, Proposals will be compared in terms of the most reasonable and effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services and administration of the Contract.

6.15. MWSBE Subcontractor Utilization.

The City maintains a strong commitment to the inclusion of MWSBEs in the City's contracting and procurement process. For the purposes of this RFP, the City will consider a Service Provider's MWSBE certification and/or MWSBE subcontracting inclusion efforts. To count towards a Department MWSBE Goal, MWSBE certified

Section 6

Evaluation Criteria

Service Providers and/or their MWSBE subcontractors must meet the following certification criteria prior to Proposal submission:

- Be designated as a City certified SBE; and/or
- Be designated as a City registered MBE or WBE

MWSBE utilization is only one (1) criterion considered in the totality of all criteria listed in this Section 6.

Section 7
Required Forms

REQUIRED FORM 1 - PROPOSALS SUBMISSION FORM
RFP # 269-2017-CWLTS

Lab Testing Services

This Proposal is submitted by:

Service Provider Name: _____

Representative (printed): _____

Representative (signed): _____

Address: _____

City/State/Zip: _____

Phone Number: _____
(Area Code) Telephone Number

Facsimile: _____
(Area Code) Fax Number

Email Address: _____

For written confirmation and questions regarding the proposal submission, the City should contact:

Name: _____

Phone Number: _____

Email Address: _____

It is understood by the Service Provider that the City reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and re-bid this RFP. Proposal is valid for one hundred and twenty (120) calendar days from the Proposal due date.

NAME OF COMPANY: _____

NAME OF AUTHORIZED PERSONEL (print) : _____

SIGNATURE OF AUTHORIZED PERSONEL: _____

TITLE OF AUTHORIZED PERSONEL: _____

DATE: _____

REQUIRED FORM 2 - ADDENDA RECEIPT CONFIRMATION
RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to <https://cmucontracts.charmeck.org>.

ADDENDUM #:

DATE ADDENDUM:

I certify that this proposal complies with the General and Specific Specifications and conditions issued by the City except as clearly marked in the attached copy.

NAME OF COMPANY: _____

NAME OF AUTHORIZED PERSONEL (print) : _____

SIGNATURE OF AUTHORIZED PERSONEL: _____

TITLE OF AUTHORIZED PERSONEL: _____

DATE: _____

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Required Forms

REQUIRED FORM 3 - PRICING WORKSHEET RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Pricing must be all-inclusive and cover every aspect of the Project as stated in Section 3.5 Pricing. Cost must be in United States dollars rounded to the nearest quarter of a dollar.

If there are additional costs associated with the Services, please add to this chart. Charlotte Water will make a determination regarding applicability to the additional charge/service. Your Price Proposal must reflect all costs that the City will be responsible for.

INSTRUCTIONS: Please indicate the Unit Price and Extended Total Price for each Item and the Total Price of Work to perform the Services outlined in this Request for Proposal (RFP).

SERVICE PROVIDER: _____

Headworks/LLHG WWTP	Estimated Samples per Month	List Types of Method(s) available:	Bid Price per analysis
Cyanide	11		
Total Phos	9		
Nitrate+Nitrite	9		
TKN	9		
Ammonia	4		
Chromium	4		
Nickel	4		
Copper	4		
Zinc	4		
Arsenic	4		
Selenium	4		
Molybdenum	4		
Silver	4		
Cadmium	4		
Lead	4		
Hg-Solid	4		
Dry wt.	7		
Hg-LL plus Hg-LL Blank	12		
Hg-LL Site visit (weekday)	2		
Hg-LL Site Visit (weekend/hol)	3		
sample disposal fees	10		

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Scope: PCBs	Estimated Samples per Month	Method(s) available:	Bid Price per analysis
PCB	80		

Scope: Bromide	Estimated Samples per Month	Method(s) available:	Bid Price per analysis
Bromide	20		

Scope: Toxicity WWTP/WT *	Estimated Samples per Quarter	Method(s) available:	Bid Price per analysis
C. dubia, chronic, pass/fail	4 to 8 samples		
C. dubia, chronic, full range/multi-conc.	1		
Fathead minnow / second species	2		
Courier Fees: per pickup (if available)	4 to 8 samples		
* Multiple labs will be selected for the Toxicity Scope with varying sample loads. Number of analyses may increase in case of failures.			

Vendors may bid on as many or as few of the following individual analyses within General Analyses.

Scope: General Analyses	Estimated Samples per Month	Method(s) available:	Bid Price per analysis
ADMI COLOR (pH=7.6)	As Needed		
CHLORIDE	As Needed		
CYANIDE	As Needed		
CYANIDE (SOLID)	As Needed		
CALCULATIONS BASED ON DRY WT.	As Needed		
FLUORIDE	As Needed		
Surfactant	As Needed		
AMMONIA-NITROGEN	As Needed		
AMMONIA-NITROGEN(SOLID)	As Needed		
NITRATE/NITRITE	As Needed		
NITRATE/NITRITE (SOLID)	As Needed		
ORTHO-PHOSPHATE	As Needed		
SILICA	As Needed		
Sulfate	As Needed		
SOLUBLE TKN	As Needed		

Section 7

Required Forms

Sulfide	As Needed		
TKN	As Needed		
TKN (SOLID)	As Needed		
TOTAL ORGANIC CARBON	As Needed		
TOTAL PHOSPHORUS	As Needed		
TOTAL PHOSPHORUS(SOLID)	As Needed		
SILVER	As Needed		
SILVER (SOLID)	As Needed		
ALUMINUM	As Needed		
ALUMINUM (SOLID)	As Needed		
ARSENIC	As Needed		
ARSENIC (SOLID)	As Needed		
BARIUM	As Needed		
BARIUM (SOLID)	As Needed		
BORON	As Needed		
BORON (SOLID)	As Needed		
CADMIUM	As Needed		
CADMIUM (SOLID)	As Needed		
COBALT	As Needed		
CHROMIUM	As Needed		
CHROMIUM (SOLID)	As Needed		
COPPER	As Needed		
COPPER (SOLID)	As Needed		
MERCURY	As Needed		
MERCURY (SOLID)	As Needed		
MERCURY Low-Level	As Needed		
MERCURY Low-Level Site Visit	As Needed		
MOLYBDENUM	As Needed		
MOLYBDENUM(SOLID)	As Needed		
NICKEL	As Needed		
NICKEL (SOLID)	As Needed		
LEAD	As Needed		
LEAD (SOLID)	As Needed		
ANTIMONY	As Needed		
SELENIUM	As Needed		
SELENIUM (SOLID)	As Needed		
TIN	As Needed		
STRONTIUM	As Needed		
STRONTIUM (SOLID)	As Needed		
VANADIUM	As Needed		

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VANADIUM (SOLID)	As Needed		
ZINC	As Needed		
ZINC (SOLID)	As Needed		
EPA 524.2	As Needed		
EPA 524.2-TRIHALOMETHANES	As Needed		
EPA 552.2 HAA	As Needed		
Pesticides by EPA 608	As Needed		
PCBs by EPA 608	As Needed		
VOC's by EPA 624	As Needed		
VOC's by EPA 624 Additional Compounds	As Needed		
EPA 625 SemiVolatile's	As Needed		
EPA 625 Additional Compounds	As Needed		
Pesticides by SW846 8081B	As Needed		
PCBs by SW846 8082A	As Needed		
Pesticides/Orgphos SWA846 8141B	As Needed		
Herbicides by SW846 8151A	As Needed		
EPA 1666	As Needed		
Pesticides/PCB EPA 508	As Needed		
Semivolatile (AQUEOUS) by EPA 525	As Needed		
Glyphosate by EPA 547	As Needed		
VOC 8260	As Needed		
VOC 8260 - (solid)	As Needed		
SW846 8270 (AQUEOUS)	As Needed		
SW846 8270 (SOILS)	As Needed		
1,4-Dioxane	As Needed		
ETHANOL	As Needed		
PHENOLS	As Needed		
TPH DRO	As Needed		
TPH Gasoline	As Needed		
HEXANE EXT MATERIAL (O&G)	As Needed		
HEXANE EXT MATERIAL SILICA GEL	As Needed		
ASBESTOS	As Needed		
Note: (SOLID) denotes an analysis processed on a dry weight basis with results given in mg/kg.			

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Scope: Water Treatment Analytical Services	Frequency , UOM, Number of Sites	Estimated Annual Qty	Bid Price per Unit
Pharmaceutical and Personal Care Products (PPCP's)	Monthly UOM Each 2 sites	24	
Radiological Analyses (Uranium, gross Alpha and Beta, Radium 226 & 228)	Quarterly UOM Each 5 sites	20	
Synthetic Organic Compounds (SOC's)	Quarterly UOM Each 7 Sites	28	
Orthophosphate/Phosphate/Calcium Samples	Weekly UOM Each 5 sites	26	
THM/HAA Samples	Weekly UOM Each 5 sites	260	
Chloride/Sulfate Samples	Monthly UOM Each 5 sites	60	
Lead/Copper Samples	Bi-Monthly UOM Each 5 sites	120	
Arsenic (Dry Weight Analysis, EPA 6010)	Weekly UOM Each 1 site	52	
Mercury (Dry Weight Analysis, EPA 7471)	Weekly UOM Each 1 site	52	
Chlorite Analysis	Monthly UOM Each 3 site	36	

Discount from List:			% Discount
Discount from Vendor's standard list price - for any analysis not listed in the scopes above.			

Additional Charges: **			Bid Price per Unit

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Required Forms

** Use this section to list any necessary fees not included in the analysis lists above, such as fees for expedited turn around, special reporting, electronic deliverables, or sample disposal fees. Note: Due to the overall value of this contact, minimum fees per COC will not be allowed.

NAME OF COMPANY: _____

NAME OF AUTHORIZED PERSONEL (print) : _____

SIGNATURE OF AUTHORIZED PERSONEL: _____

TITLE OF AUTHORIZED PERSONEL: _____

DATE: _____

REQUIRED FORM 4 - PROPOSAL CERTIFICATION
RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

SERVICE PROVIDER: _____

The undersigned Service Provider hereby certifies and agrees that the following information is correct:

1. In preparing its proposal, the Service Provider has considered all proposals submitted from qualified, potential subcontractors and suppliers; and has not engaged in or condoned prohibited discrimination.
2. For purposes of this section, *prohibited discrimination* means discrimination against any person, business or other entity in contracting or purchasing practices on the basis of race, color, sex, or national origin. Without limiting the foregoing, *prohibited discrimination* also includes retaliating against any person, business or other entity for reporting any incident of prohibited discrimination.
3. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted by the Bidder on this Project and to terminate any contract awarded based on such bid.
4. As a condition of contracting with the City, the Service Provider agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Service Provider further agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Service Provider or terminate any contract awarded on such bid.

NAME OF COMPANY: _____

NAME OF AUTHORIZED PERSONEL (print) : _____

SIGNATURE OF AUTHORIZED PERSONEL: _____

TITLE OF AUTHORIZED PERSONEL: _____

DATE: _____

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REQUIRED FORM 5 – MWSBE SUBCONTRACTOR UTILIZATION

RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

The City maintains a strong commitment to the inclusion of MWSBEs in the City's contracting and procurement process when there are viable subcontracting opportunities.

Service Providers must submit this form with their proposal outlining any supplies and/or services to be provided by each City certified Small Business Enterprise (SBE), and/or City registered Minority Business Enterprise (MBE) and Woman Business Enterprise (WBE) for the Contract. If the Service Provider is a City-registered MWSBE, note that on this form.

The City recommends you exhaust all efforts when identifying potential MWSBEs to participate on this RFP.

Company Name:	
----------------------	--

Please indicate if your company is any of the following:

___ MBE ___ WBE ___ SBE ___ None of the above

If your company has been certified with any of the agencies affiliated with the designations above, indicate which agency, the effective and expiration date of that certification below:

Agency Certifying: _____ Effective Date: _____ Expiration Date: _____

Identify outreach efforts that were employed by the firm to maximize inclusion of MWSBEs to be submitted with the firm's proposal (attach additional sheets if needed):

Identify outreach efforts that will be employed by the firm to maximize inclusion during the contract period of the Project (attach additional sheets if needed):

[Form continues on next page]

List below all **MWSBEs** that you intend to use on this Contract.

Subcontractor Name	Description of work or materials	Indicate either "M", "S", and/or "W"	City Vendor #

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Total MBE Utilization	%
Total WBE Utilization	%
Total SBE Utilization	%
Aggregate MWSBE Utilization	%

Date

Name of Company

Estimated Total Contract Value

Name, Title and Signature

REQUIRED FORM 6 – E-VERIFY CERTIFICATION

RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

This E-Verify Certification is provided to the City of Charlotte (the “City”) by the company signing below (“Company”) as a prerequisite to the City considering Company for award of a City contract (the “Contract”).

1. Company understands that:
 - a. E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies to enable employers to verify the work authorization of employees pursuant to federal law, as modified from time to time.
 - b. Article 2 of Chapter 64 of the North Carolina General Statutes requires employers that transact business in this state and employ 25 or more employees in this state to: (i) verify the work authorization of employees who will be performing work in North Carolina through E-Verify; and (ii) maintain records of such verification (the “E-Verify Requirements”).
 - c. North Carolina General Statute 160A-20.1(b) prohibits the City from entering into contracts unless the contractor and all subcontractors comply with the E-Verify Requirements.
2. As a condition of being considered for the Contract, Company certifies that:
 - a. If Company has 25 or more employees working in North Carolina (whether now or at any time during the term of the Contract), Company will comply with the E-Verify Requirements in verifying the work authorization of Company employees working in North Carolina; and
 - b. Regardless of how many employees Company has working in North Carolina; Company will take appropriate steps to ensure that each subcontractor performing work on the Contract that has 25 or more employees working in North Carolina will comply with the E-Verify Requirements.
3. Company acknowledges that the City will be relying on this Certification in entering into the Contract, and that the City may incur expenses and damages if the City enters into the Contract with Company and Company or any subcontractor fails to comply with the E-Verify Requirements. Company agrees to indemnify and save the City harmless from and against all losses, damages, costs, expenses (including reasonable attorney’s fees) obligations, duties, fines and penalties (collectively “Losses”) arising directly or indirectly from violation of the E-Verify Requirements by Company or any of its subcontractors, including without limitation any Losses incurred as a result of the Contract being deemed void.

NAME OF COMPANY: _____
NAME OF AUTHORIZED PERSONEL: (PRINT) _____
SIGNATURE OF AUTHORIZED PERSONEL: _____
TITLE OF AUTHORIZED PERSONEL: _____
DATE: _____

Section 7

Required Forms

REQUIRED FORM 7 – SERVICE PROVIDER’S BACKGROUND RESPONSE RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

Service Providers should complete and submit the form below as part of their Proposal:

Question	Response
Service Provider Identification	
Service Provider Name (Official Name)	
Service Provider Location (corporate headquarters)	
Service Provider Experience	
# of years in business:	
# of public sector clients	
# of public sector clients using the services being proposed.	
Identify by name some of the clients similar to City (e.g., similar in size, complexity, location, type of organization)	
Identify industries and public sector market segments served	
Identify national and regional user groups	
Explain the purpose and function of user groups	
Identify if there is an annual or biannual user conference	
Identify next planned national conference (location and date)	
List any terminated projects. Please disclose the jurisdiction and explain the reason for the termination.	
List any litigation that you have been involved with during the past two (2) years on Lab Testing Services implementations.	
Organization Size	
If Service Provider is a subsidiary, identify # of employees in proposing company/division.	
If Service Provider is a subsidiary, identify revenues of proposing company/division	
Identify the percentage of revenue used for research & development by the proposing company/division	
Corporate Notes	

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Privately held? Publicly traded? Parent Company?	
Identify any certifications held by your firm if you are implementing or reselling another firm's products. Include how long the partnership or certification has been effect.	
Additional Narrative Response	
Provide an overview and history of your company.	
Describe your total organization, including any parent companies, subsidiaries, affiliates and other related entities.	
Describe the ownership structure of your organization, including any significant or controlling equity holders.	
Provide a management organization chart of your overall organization, showing director and officer positions and names and the reporting structure.	
Provide detailed information for the Lab Testing Services business segments of your organization, showing the reporting structures within these segments and among these segments and the overall organization.	
Describe any organizational changes such as divestitures, acquisitions, or spin-offs involving your Lab Testing Services business segments that have occurred in the latest two (2) years or are anticipated in the future. Include all appropriate organizational charts.	
Detail how long the company has been providing Lab Testing Services to local governments and include information regarding experience with similar Lab Testing Services projects.	
Describe the key individuals, along with their qualifications, professional certifications and experience that would comprise your organization's team for providing Services to the City.	

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Explain how your organization ensures that personnel performing technical support services are qualified and proficient.	
Please provide information regarding the level of staffing at your organization's facilities, as well as the level of staffing at subcontractors' facilities, if known.	
If your organization has been the subject of a dispute or strike by organized labor within the last five (5) years, please describe the circumstances and the resolution of the dispute.	
What steps will your organization take to ensure that the transition of Services runs smoothly?	
Prepare and submit a Project Plan to describe, to the best of your ability, all times, tasks and resources associated with the performance of Services.	
Describe the communications scheme that your organization will use to keep the City informed about the progress of the Project.	
Describe the risks associated with this Contract. What contingencies have been built in to mitigate those risks?	

REQUIRED FORM 8 – REFERENCES

RFP # 269-2017-CWLTS

Lab Testing & Analytical Services

Provide an organization name, address, contact name, and contact telephone number for at least three (3) customers of comparable size and scope of service that your Company has been under contract with to provide Project-Name for during the past five (5) years.

Reference 1	
Company Name	
Contact Name	
Phone Number	
Reference 2	
Company Name	
Contact Name	
Phone Number	
Reference 3	
Company Name	
Contact Name	
Phone Number	
Reference 4	
Company Name	
Contact Name	
Phone Number	
Reference 5	
Company Name	
Contact Name	
Phone Number	

Section 7

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REQUIRED FORM 9 – SAFETY ASSESSMENT

RFP # 269-2017-CWLTS

Lab Testing & Analytical Services



Contractor Safety Assessment

1. Organization Information:		
Company Name: _____		
On-Site Representative: _____	Phone #: _____	
Email: _____		
Safety Representative: _____	Phone #: _____	
Email: _____		
2. Safety-Program Documentation:		
	Yes	N/A
• Does your company have a written safety and health program that is available upon request?	_____	_____
• Are your employees current on all applicable safety-related training?	_____	_____
• Provide copies of your OSHA annual summary (Form 300A) for the past 3 years.	_____	_____
• Provide copies of any OSHA citations or violations for the past 3 years.	_____	_____
• Provide your company's NAICS* code.	_____	
	Year	DART Rate**
• What is your company's DART incidence rate for the past 3 years?	_____	_____
	_____	_____
• What is your industry's DART incidence rate for the past 3 years?	_____	_____
	_____	_____
<p>*NAICS - North American Industrial Classification System – If you need assistance with this information, please refer to the Bureau of Labor Statistics (BLS) website at www.bls.gov or contact a safety consultant.</p> <p>**DART Rate – If one of your past three-year DART incidence rate exceeded the industry standard, please attach an explanation as to why. As well your company DART incidence rate for the past five years.</p>		
3. Insurance-Coverage Documentation:		
	Yes	N/A
• A copy of your workers' compensation certificate of insurance	_____	_____
• A copy of your commercial general liability certificate of insurance	_____	_____
• A copy of your automobile liability certificate of insurance	_____	_____
• A copy of your professional liability certificate of insurance for errors and omissions	_____	_____
• A copy of your fidelity or performance bond	_____	_____
<p>Based on the scope of the project, insurance documentation must be submitted. Please refer to the insurance requirements on page 2 & 3 of this form for the City's insurance requirements.</p>		
4. Sign and date the form:		
Authorized Signature: _____	Date: _____	
Print Name: _____		

Exhibit A – Contract Terms and Conditions

As used in this Section of the RFP, the term “Contract” shall refer to the agreement entered into between the City and the successful Service Provider, and the term “Company” shall refer to the successful Service Provider.

RECITALS

WHEREAS, the City issued a Request For Proposals (RFP # 269-2017-CWLTS) for Lab Testing & Analytical Services dated SEPTEMBER 1, 2016, YEAR. This Request for Proposals together with all attachments and addenda, is referred to herein as the “RFP”; and

WHEREAS, the City desires that the Company provide certain Lab Testing Services (“Services”), and the Company desires to provide such Services; and

WHEREAS, the City and the Company have negotiated and agreed regarding the above-referenced Services and desire to reduce the terms and conditions of their agreement to this written form.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

CONTRACT

1. EXHIBITS.

The Exhibits below are hereby incorporated into and made a part of this Contract. In interpreting this Contract and resolving any ambiguities, the main body of this Contract will take precedence over the Exhibits, and any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below. Each reference to COMPANY NAME in the Exhibits and Appendices shall be deemed to mean the Company.

- 1.1. EXHIBIT A: PRICE SCHEDULE
- 1.2. EXHIBIT B: SCOPE OF WORK
- 1.3. EXHIBIT C: REQUIRED FORMS

2. DEFINITIONS.

This section shall include, but not be limited to, all terms defined in Section 1 of the RFP.

3. DESCRIPTION OF SERVICES.

- 3.1. The Company shall be responsible for providing the Services described in Exhibit B attached to this Contract and incorporated herein by reference. Without limiting the foregoing, the Company will perform the Services and meet the requirements as set forth in Exhibit B. However, the Company shall not be responsible for tasks specifically assigned to the City in this Contract or in Exhibit B.

4. COMPENSATION.

4.1. TOTAL FEES AND CHARGES.

The City agrees to pay the Company on a time and materials basis. The City agrees to pay the Company for the Services at the hourly rates set forth in Exhibit A, which shall remain firm for the duration of the Contract.

4.2. EMPLOYMENT TAXES AND EMPLOYEE BENEFITS.

The Company represents and warrants that the employees provided by the Company to perform the Services (“Consultants”) are actual employees of the Company, and that the Company shall be responsible for providing all salary and other applicable

Exhibit A – Contract Terms and Conditions

benefits to each Consultant. The Company further represents, warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation and other payments and deductions that are required by law for each Consultant. The Company agrees that the Consultants are not employees of the City.

4.3. INVOICES.

4.3.1. Each invoice sent by the Company shall detail all Services performed and delivered which are necessary to entitle the Company to the requested payment under the terms of this Contract.

4.3.2. All invoices must include the City's Contract Number and Purchase Order Number.

4.3.3. Purchase order numbers will be provided by the City.

4.3.4. Invoices must be submitted with lines matching those on the City-provided purchase order.

4.3.5. The Company shall email all invoices to cocap@charlottenc.gov with Accounts Payable (or AP) in the subject line.

4.3.6. Invoices that are addressed directly to City departments and not to Accounts Payable may not be handled as quickly as invoices that are addressed correctly.

4.4. DUE DATE OF INVOICES.

Payment of invoices shall be due within thirty (30) days after receipt of an accurate, undisputed properly submitted invoice by the City.

4.5. AUDIT.

During the term of this Contract and for a period of one (1) year after termination of this Contract, the City shall have the right to audit, either itself or through an independent auditor, all books and records and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of this Contract or the City's payment obligations. The City shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.

5. RECORDS.

The City shall have the right to audit the Company's invoices, expense reports and other documents relating to the Services performed under the Contract, and shall not be required to pay for Services which did not occur, or which occurred in breach of the Contract. The Company shall make such documents available for inspection and copying by the City in Charlotte, North Carolina between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday, whenever requested by the City.

6. COMPANY PROJECT MANAGER.

The duties of the Company Project Manager include, but are not limited to:

Exhibit A – Contract Terms and Conditions

- 6.1. Coordination of Project schedules and the Company's resource assignment based upon the City's requirements and schedule constraints;
- 6.2. Management of the overall Project by monitoring and reporting on the status of the Project and actual versus projected progress, and by consulting with the City's Project Manager when deviations occur and by documenting all such deviations in accordance with agreed upon change control procedures;
- 6.3. Provision of consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Company's specialist resources that may be needed to supplement the Company's normal implementation staff;
- 6.4. Acting as the Company's point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
- 6.5. Facilitation of review meetings and conferences between the City and the Company's executives when scheduled or requested by the City;
- 6.6. Communication among and between the City and the Company's staff;
- 6.7. Promptly responding to the City Project Manager when consulted in writing or by E-mail with respect to Project deviations and necessary documentation;
- 6.8. Identifying and providing the City with timely written notice of all issues that may threaten the Company's Services in the manner contemplated by the Contract (with "timely" meaning immediately after the Company becomes aware of them);
- 6.9. Ensuring that adequate quality assurance procedures are in place through the Project; and
- 6.10. Meeting with other service providers working on City projects that relate to this effort as necessary to resolve problems and coordinate the Services.

7. CITY PROJECT MANAGER.

The duties of the City Project Manager are to (1) ensure that the Company delivers all requirements and specifications in the Contract; (2) coordinate the City's resource assignment as required to fulfill the City's obligations pursuant to the Contract; (3) promptly respond to the Company Project Manager when consulted in writing or by E-mail with respect to project issues; and (4) act as the City's point of contact for all aspects of the Project including contract administration and coordination of communication with the City's staff. The City shall be allowed to change staffing for the City Project Manager position on one (1) business day's notice to the Company.

8. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.

The Company shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Company to perform each task comprising the Services, (ii) the City's personnel whose presence or assistance reasonably may be required by the Company to perform each task comprising the Services, and (iii) any other equipment, facility or resource reasonably required by the Company to perform the Services. Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide information, personnel or facilities other than those that Exhibit A specifically requires the City to provide, unless the City can do so at no significant cost. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's

Exhibit A – Contract Terms and Conditions

failure to provide any information, personnel, equipment, facilities or resources: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) that the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Company shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Company of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility or resource.

9. BACKGROUND CHECKS.

Prior to starting work under this Contract, the Company is required to conduct a background check on each Company employee assigned to work under this Contract, and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (b) a reference check.

After starting work under this Contract, the Company is required to perform a Background Check for each new Company employee assigned to work under this Contract during that year, and shall require its subcontractors (if any) to do the same for each of their employees. If the Company undertakes a new project under this Contract, then prior to commencing performance of the project the Company shall perform a Background Check for each Company employee assigned to work on the project, and shall require its subcontractors (if any) to do the same for each of their employees.

If a person's duties under this Contract fall within the categories described below, the Background Checks that the Company will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

- If the job duties require driving: A motor vehicle records check.
- If the job duties include responsibility for initiating or affecting financial transactions: A credit history check.
- If job duties include entering a private household or interaction with children: A sexual offender registry check.

The Company must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.

The Company shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.

With a 30 day written notice, The City has the right to conduct its own background checks on principals of the Company as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

10. REPRESENTATIONS AND WARRANTIES OF COMPANY.

10.1. GENERAL WARRANTIES.

- 10.1.1. The Services shall satisfy all requirements set forth in the Contract, including but not limited to the attached Exhibits;
- 10.1.2. The Services provided by the Company under the Contract will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party;

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- 10.1.3. All Services performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a workmanlike manner by staff with the necessary skills, experience and knowledge;
- 10.1.4. The Company shall have the qualifications, skills and experience necessary to perform the Services described or referenced in Exhibit B;
- 10.1.5. All information provided by the Company is accurate; and
- 10.2. **ADDITIONAL WARRANTIES.**
The Company further represents and warrants that:
 - 10.2.1. It is a legal entity and if incorporated, duly incorporated, validly existing and in good standing under the laws of the state of its incorporation or licensing and is qualified to do business in North Carolina;
 - 10.2.2. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
 - 10.2.3. The execution, delivery, and performance of this Contract have been duly authorized by the Company;
 - 10.2.4. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
 - 10.2.5. In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
 - 10.2.6. The performance of this Contract by the Company will not violate any contracts or agreements with third parties or any third party rights (including but not limited to non-compete agreements, non-disclosure agreements, patents, trademarks or intellectual property rights).

11. OTHER OBLIGATIONS OF THE COMPANY.

- 11.1. **WORK ON CITY'S PREMISES.**
The Company and all Consultants will, whenever on the City's premises, obey all instructions and City policies, that are provided to them with respect to performing Services on the City's premises.
- 11.2. **RESPECTFUL AND COURTEOUS BEHAVIOR.**
The Company shall assure that its employees interact with City employees and with the public in a courteous, helpful and impartial manner. All employees of the Company in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Company.
- 11.3. **REPAIR OR REPLACEMENT OF DAMAGE EQUIPMENT OR FACILITIES.**
In the event that the Company causes damage to the City's equipment or facilities, the Company shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to the Company's action.

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11.4. REGENERATION OF LOST OR DAMAGED DATA.

With respect to any data that the Company or any Consultants have negligently lost or negligently damaged, the Company shall, at its own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at the Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.

12. REMEDIES.**12.1. RIGHT TO COVER.**

If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the City may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have:

- a. Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Company is again able to resume performance under this Contract; and
- b. Deduct any and all expenses incurred by the City in obtaining or performing the Services from any money then due or to become due the Company and, should the City's cost of obtaining or performing the services exceed the amount due the Company, collect the amount due from the Company.

12.2. RIGHT TO WITHHOLD PAYMENT.

If the Company breaches any provision of this Contract, the City shall have a right to withhold all payments due to the Company until such breach has been fully cured.

12.3. SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.

The Company agrees that monetary damages are not an adequate remedy for the Company's failure to provide the Services or Deliverables as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches the Contract.

12.4. OTHER REMEDIES.

Upon breach of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.

13. TERMINATION OF CONTRACT.**13.1. TERM.**

This Contract shall commence on the Effective Date and shall continue in effect for One (1) year with the City having the unilateral right to renew for two year (2) consecutive one (1) year terms.

13.2. TERMINATION BY THE CITY.

The City may terminate the Contract at any time without cause by giving thirty (30) days prior written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, Company shall submit a statement to the

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City showing in detail the Services performed under this Contract through the date of termination. The forgoing payment obligation is contingent upon: (i) the Company having fully complied with Section 21.8; and (ii) the Company having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each Consultant through the termination date and the percentage of completion of each task.

13.3. CANCELLATION OF ORDERS AND SUBCONTRACTS.

In the event this Contract is terminated by the City for any reason prior to the end of the term, the Company shall upon termination immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the Company shall submit a statement to the City showing in detail the Services performed under this Contract to the date of termination.

13.4. AUTHORITY TO TERMINATE.

The following persons are authorized to terminate this Contract on behalf of the City: (a) the City Manager, any Assistant City Manager, or any designee of the City Manager; or (b) the Department Director of the City Department responsible for administering this Contract.

14. TRANSITION SERVICES UPON TERMINATION.

Upon termination or expiration of this Contract, the Company shall cooperate with the City to assist with the orderly transfer of the Services provided by the Company to the City. Prior to termination or expiration of this Contract, the City may require the Company to perform and, if so required, the Company shall perform certain transition services necessary to shift the Services of the Company to another provider or to the City itself as described below (the “Transition Services”). Transition Services may include but shall not be limited to the following:

- Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the Services;
- Notifying all affected service providers and subcontractors of the Company;
- Performing the Transition Service Plan activities;
- Answering questions regarding the Services on an as-needed basis; and
- Providing such other reasonable services needed to effectuate an orderly transition to a new service provider.

15. CITY OWNERSHIP OF WORK PRODUCT.

15.1. The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the “Intellectual Property”). The Company hereby assigns and transfers all rights in the Intellectual Property to the City. The Company further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain and enforce the City’s rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. The Company hereby appoints the City as attorney in fact to execute

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all such assignments and instruments and agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

- 15.2. The City grants the Company a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the Intellectual Property for other purposes without the City's prior written consent, and shall treat the Intellectual Property as "Confidential Information" of the Contract.
- 15.3. The Company will treat as Confidential Information under the Confidentiality and Non-Disclosure Contract all data in connection with the Contract. City data processed by the Company shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by the Contract.

16. RELATIONSHIP OF THE PARTIES.

The relationship of the parties established by this Contract is solely that of independent contractors, and nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking; or (iii) make either party an agent of the other, or any Consultant an agent or employee of the County, for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent or employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

17. INDEMNIFICATION.

To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Services or any products or deliverables provided to the City pursuant to this Contract ("Infringement Claims"); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; (iii) arising from the Company's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; (iv) arising from any claim that the Company or an employee or subcontractor of the Company is an employee of the City, including but not limited to claims relating to worker's compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term "Indemnitees" means the City and each of the City's officers, officials, employees, agents and independent contractors (excluding the Company); and (b) the term "Charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the

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overall product(s) and service(s) provided to the City shall not be adversely affected by such replacement or modification. If the Company is unable to comply with the preceding sentence within thirty (30) days after the City is directed to cease use of a product or service, the Company shall promptly refund to the City all amounts paid under this Contract.

This **Section 22** shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

18. CONFIDENTIAL INFORMATION.

18.1. CONFIDENTIAL INFORMATION.

Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the City or its vendors or licensors or which falls within any of the following general categories:

- 18.1.1. *Trade secrets.* For purposes of this Contract, trade secrets consist of *information* of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- 18.1.2. *Information of the City or its suppliers, contractors or licensors marked “Confidential” or “Proprietary.”*
- 18.1.3. *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.*
- 18.1.4. *Information contained in the City’s personnel files, as defined by N.C. Gen. Stat. 160A-168.* This consists of all information gathered and/or maintained by the City about employees, except for that information which is a matter of public record under North Carolina law.
- 18.1.5. *Citizen or employee social security numbers collected by the City.*
- 18.1.6. *Computer security information of the City,* including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
- 18.1.7. *Local tax records of the City that contains information about a taxpayer’s income or receipts.*
- 18.1.8. *Any attorney / City privileged information disclosed by either party.*
- 18.1.9. *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*
- 18.1.10. *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*
- 18.1.11. *Building plans of city-owned buildings or structures, as well as any detailed security plans.*

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18.1.12. *Billing information of customers compiled and maintained in connection with the City providing utility services.*

18.1.13. *Other information that is exempt from disclosure under the North Carolina public records laws.*

Categories 19.1.3 through 19.1.13 above constitute “Highly Restricted Information,” as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Contract.

18.2. RESTRICTIONS.

The Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

18.2.1. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.

18.2.2. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Company, other than an employee, agent, subcontractor or vendor of the City or Company who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement incorporating substantially the form of this Section of the Contract and containing all protections set forth herein.

18.2.3. It shall not use any Confidential Information of the City for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.

18.2.4. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.

18.2.5. The Company shall use its best efforts to enforce the proprietary rights of the City and the City’s vendors, licensors and suppliers (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by this Contract.

18.2.6. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the Company shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

18.2.7. All materials which constitute, reveal or derive from Confidential

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Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.

18.3. **EXCEPTIONS.**

The parties agree that the Company shall have no obligation with respect to any Confidential Information which the Company can establish:

- 18.3.1. Was already known to the Company prior to being disclosed by the disclosing party;
- 18.3.2. Was or becomes publicly known through no wrongful act of the Company;
- 18.3.3. Was rightfully obtained by the Company from a third party without similar restriction and without breach hereof;
- 18.3.4. Was used or disclosed by the Company with the prior written authorization of the City;
- 18.3.5. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Company shall first give to the City notice of such requirement or request;
- 18.3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, this Contract will be applicable to all disclosures under the court order or subpoena.

18.4. **UNINTENTIONAL DISCLOSURE.**

Notwithstanding anything contained herein in to the contrary, in the event that the Company is unintentionally exposed to any Confidential Information of the City, the Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.

18.5. **REMEDIES.**

The Company acknowledges that the unauthorized disclosure of the Confidential Information of the City will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Company breaches its obligations hereunder, the City shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

19. INSURANCE.

19.1. **TYPES OF INSURANCE.**

Company shall obtain and maintain during the life of this Contract, with an insurance Company rated not less than “A” by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:

- 19.1.1. Automobile Liability - Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property

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damage, or \$1,000,000 combined single limit - bodily injury and property damage.

19.1.2. Commercial General Liability - Bodily injury and property damage liability as shall protect the Company and any subcontractor performing Services under this Contract, from claims of bodily injury or property damage which arise from performance of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.

19.1.3. Professional Errors & Omissions
Insurance with a limit of not less than \$1,000,000 per claim, \$1,000,000 aggregate as shall protect the contractor and the contractor's employees for negligent acts, errors or omissions in performing the professional services under this contract.

19.1.4. Workers' Compensation and Employers Liability - meeting the statutory requirements of the State of North Carolina, \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.

The Company shall not commence any Services in connection with this Contract until it has obtained all of the foregoing types of insurance and such insurance has been approved by the City. The Company shall not allow any subcontractor to commence Services on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

19.2. **OTHER INSURANCE REQUIREMENTS.**

19.2.1. The City shall be exempt from, and in no way liable for any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.

19.2.2. City of Charlotte shall be named as an additional insured for operations or services rendered under the automobile and general liability coverage. The Company's insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Company's operations under this agreement.

19.2.3. Certificates of such insurance will be furnished to the City and shall contain the provision that the City be given thirty (30) days' written notice of any intent to amend coverage reductions or material changes or terminate by either the insured or the insuring Company.

19.2.4. Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance shall be furnished to the City.

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- 19.2.5. If any part of the Services under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above. However, this will in no way relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

20. COMMERCIAL NON-DISCRIMINATION.

The City has adopted a Commercial Non-Discrimination Ordinance that is set forth in Section 2, Article V of the Charlotte City Code, and is available for review on the City's website (the "Non-Discrimination Policy"). As a condition of entering into this agreement, the Company represents and warrants that it will fully comply with the City's Commercial Non-Discrimination Policy, as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, marital status, familial status, sexual orientation, gender identity, gender expression, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors or suppliers in connection with a City contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Company understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the Company from participating in City contracts or other sanctions

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty (60) days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Company has used on City contracts in the past five (5) years, including the total dollar amount paid by Company on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

The Company agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by Company to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time.

The Company understands and agrees that violation of this Commercial Non-Discrimination provision shall be considered a material breach of this Contract and may result in contract termination or disqualification of the Company from participating in City contracts and other sanctions.

21. NOTICES AND PRINCIPAL CONTACTS.

Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, or by electronic mail to the intended recipient at the address set forth below:

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FOR THE COMPANY:	FOR THE CITY:
	Monica Henson
	Charlotte Water
	5100 Brookshire Blvd.
	Charlotte, NC 28216
	Phone: 704-391-5081
	Fax: 704-632-8536
	mahenson@charlottenc.gov
WITH COPY TO:	

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice, which is sent by telefax or electronic mail, shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

22. MISCELLANEOUS.

22.1. ENTIRE AGREEMENT.

This Contract is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.

22.2. AMENDMENT.

No amendment or change to this Contract shall be valid unless in writing and signed by both parties to this Contract.

22.3. GOVERNING LAW AND JURISDICTION.

The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina, and will be performed in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). The parties further agree that any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections, which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.

22.4. BINDING NATURE AND ASSIGNMENT.

This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign any of the rights and obligations thereunder without the

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prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

22.5. **FORCE MAJEURE.**

22.5.1. The Company shall be not liable for any failure or delay in the performance of its obligations pursuant to this Contract (and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied: (i) if such failure or delay: (a) could not have been prevented by reasonable precaution, and (b) cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or court order.

22.5.2. Upon the occurrence of an event which satisfies all of the conditions set forth above (a “Force Majeure Event”) the Company shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the Company continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

22.5.3. Upon the occurrence of a Force Majeure Event, the Company shall immediately notify the City by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than five (5) days, the City may terminate this Contract.

22.5.4. Strikes, slow-downs, walkouts, lockouts, and individual disputes are not excused under this provision.

22.6. **SEVERABILITY.**

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

22.7. **NO PUBLICITY.**

No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City.

22.8. **APPROVALS.**

All approvals or consents required under this Contract must be in writing.

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22.9. WAIVER.

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

22.10. SURVIVAL OF PROVISIONS.

The following titles within various sections of this Contract shall survive the termination hereof:

- “Employment Taxes and Employee Benefits”
- “Representations and Warranties of Company”
- “Termination of Contract”
- “City Ownership of Work Product”
- “Indemnification”
- “Confidential Information”
- “Insurance”
- “Notices and Principal Contacts”
- “Miscellaneous”

22.11. CHANGE IN CONTROL.

In the event of a change in “Control” of the Company (as defined below), the City shall have the option of terminating this Contract by written notice to the Company. The Company shall notify the City within ten (10) days of the occurrence of a change in control. As used in this Contract, the term “Control” shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.

22.12. FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.

The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to, workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the Services.

22.13. CONFLICT OF INTEREST.

The Company covenants that its officers, employees and shareholders have no interest and shall not acquire any interest, direct or indirect that would conflict in any manner or degree with the performance of Services required to be performed under the Contract.

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22.14. NO BRIBERY.

The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed or attempted to bribe an officer or employee of the City in connection with the Contract.

22.15. HARASSMENT.

The Company agrees to make itself aware of and comply with the City's Harassment Policy. The City will not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. Violators of this policy will be subject to termination.

22.16. Iran Divestment Act. Company warrants and certifies that as of the Effective Date, Company is not identified on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 143-6A-4. The person signing this Contract certifies that he or she is authorized by Company to make the foregoing certification. Company further agrees that it will not utilize on this Contract any subcontractor that is identified on the Final Divestment List.

22.17. COUNTERPARTS.

This Contract may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.

Smoke-Free Government Grounds and Tobacco-Free Parks*A Mecklenburg County Initiative to Improve Health*

As of March 18, 2015:



All government owned buildings, vehicles and property (grounds) are **smoke-free** in Mecklenburg County, the City of Charlotte, the CATS transit system and in the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill and Pineville. This is a Mecklenburg County Board of Health Rule.



All Mecklenburg County owned parks, greenways and park property are **tobacco-free**. Exceptions include the county golf courses and some regional parks. This is a Mecklenburg County Ordinance.

Smoke-free is defined as no smoking or combustible products such as cigarettes, cigars, cigarillos or pipes.

Tobacco-free is defined as no tobacco product use including smoking products, smokeless tobacco (dip, snuff) and electronic cigarettes or vaping products.

Benefits of Tobacco-Free Environments:

- Protects people from secondhand smoke exposure
- Supports and encourages people to quit smoking or using tobacco products
- Provides positive role modeling to youth which can keep kids from starting
- Reduces tobacco litter and fire hazard
- Reduces overall smoking/tobacco use rates

Reducing tobacco use will prevent chronic disease, improve our community's health and save money in health care costs.



For more information, go to www.tobaccofreemeck.org or call Mecklenburg County Health Department at 980-314-9064
For tobacco awareness education and news, follow TobaccoFreeMeck on Twitter and Facebook